



**REPORT of
DIRECTOR OF SERVICE DELIVERY**

to
**SOUTH EASTERN AREA PLANNING COMMITTEE
18 AUGUST 2021**

Application Number	21/00628/FUL
Location	Land North Of Riversleigh, Nipsells Chase, Mayland, CM0 6EJ
Proposal	Construction of a single storey dwelling
Applicant	Mr and Mrs Kenny Paton
Agent	Mr Anthony Cussen - Cussen Construction Consultants
Target Decision Date	20.08.2021
Case Officer	Louise Staplehurst
Parish	MAYLAND
Reason for Referral to the Committee / Council	Councillor / Member of Staff Councillor Sue White is co-applicant

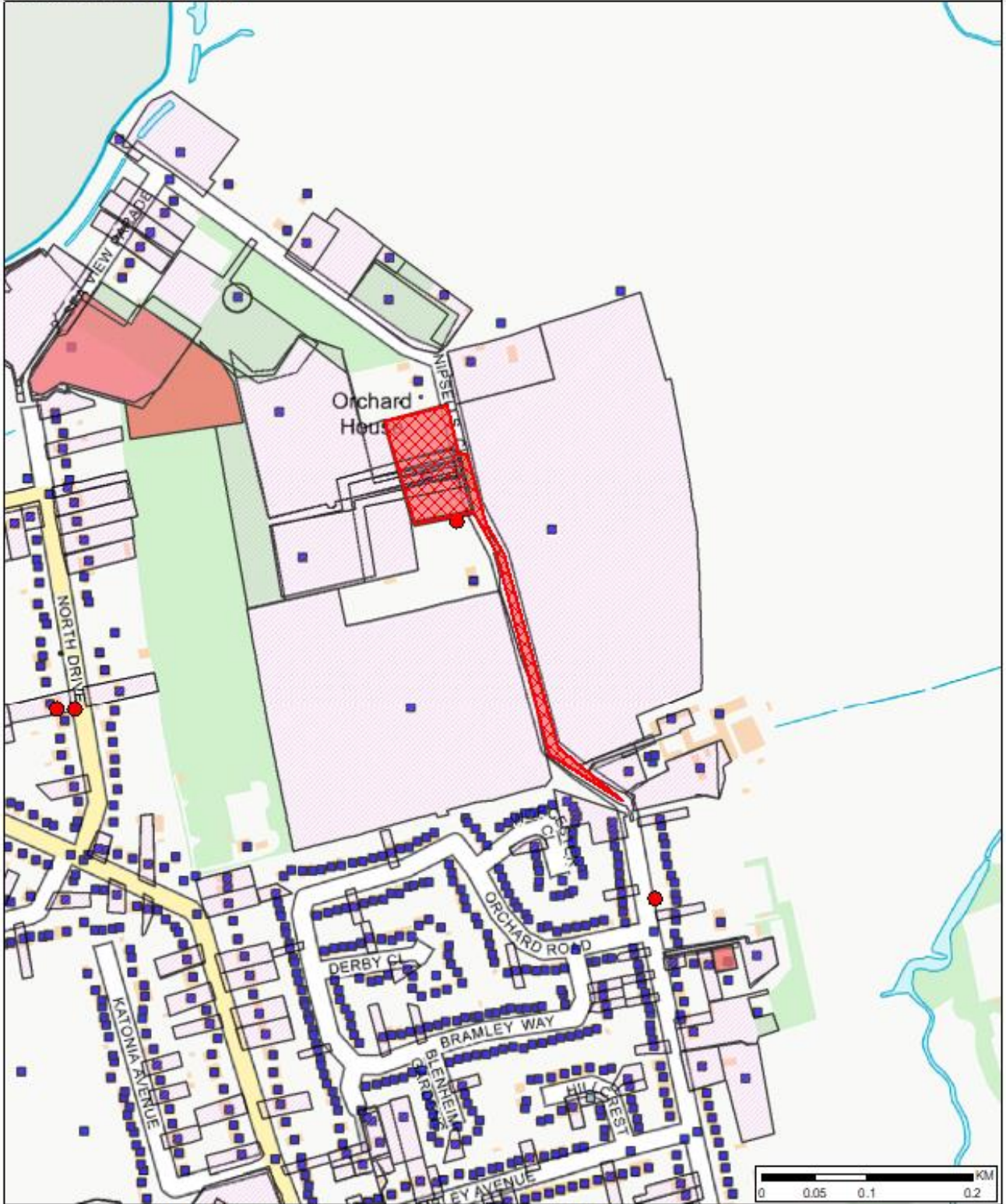
1. RECOMMENDATION


REFUSE for the reasons as detailed in Section 8 of this report.

2. SITE MAP

Please see below.

21/00628/FUL
Land North Of Riversleigh



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	<p>Organisation: Maldon District Council</p>	<p>Department: Department</p>
<p>www.maldon.gov.uk</p>	<p>Comments: SEAC</p>	<p>Date: 09/08/2021</p>
	<p>MSA Number: 100018588</p>	

3. SUMMARY

3.1 Proposal / brief overview, including any relevant background information

- 3.1.1 The application site is located to the west of Nipsells Chase to the north of the settlement boundary of Mayland. The site is currently vacant with a vehicle entrance at the centre of the east boundary of the site which leads to the wider field where planning permission has been granted for a barn, stable and ménage. Within the site is a largely open area of grassed land with a number of young trees. The edges of the site feature denser and more mature tree and hedgerow soft landscaping. To the north of the site is the residential property of Orchard House and to the south is the residential property of Riversleigh.
- 3.1.2 Planning permission is sought for the construction of one single storey dwelling. Internally, it will have three bedrooms, one with an en-suite, a home office with a toilet, two further bathrooms, a kitchen, utility room, boiler room, lounge/dining room, garage and veranda.
- 3.1.3 The proposed dwelling would have a 'H' shaped footprint with the overall width measuring 23 metres wide and overall depth measuring 18.8 metres. It will have a main eaves height of 2.6 metres and a ridge height of 8.1 metres. There will be two gable roof projections to the front and rear.
- 3.1.4 A gravel parking area to the north of the dwelling would be provided that would lead from the access taken from Nipsells Chase. The remainder of the site would be used as amenity space.
- 3.1.5 The proposed dwelling would feature a garage and include ample space for the parking of cars to the north of the dwelling.
- 3.1.6 The materials to be used in the construction of the dwelling would include painted weatherboarding to the elevations and plain tiles or cedar shingles to the roof with timber framed doors and windows.
- 3.1.7 This application follows two previous applications. Application 17/00736/FUL proposed a dwelling within the site, although the site extended further to the north than the current application. This application was withdrawn prior to the committee meeting; however, concerns were raised under this application regarding the impact of a dwelling in this location on the rural character of the area. The officer's report had been published on the committee agenda prior to the application being withdrawn.
- 3.1.8 Application 21/00102/FUL also proposed a dwelling on the site. This application was withdrawn prior to the committee meeting; however, concerns were raised under this application regarding the impact of a dwelling in this location on the rural character of the area and the accessibility/sustainability of the site. The officer's report had been published on the committee agenda prior to the application being withdrawn.

3.2 Conclusion

- 3.2.1 Having taken all material planning considerations into account, an objection is raised to the principle of the proposed development, which by reason of the unsustainable location of the proposed development and the visual impact on the character, openness and intrinsic beauty of the countryside would be contrary to the National Planning Policy Framework (NPPF) and the policies of the Development Plan (LDP).

4. MAIN RELEVANT POLICIES

Members' attention is drawn to the list of background papers attached to the agenda.

4.1 National Planning Policy Framework 2021 including paragraphs:

- 7 Sustainable development
- 8 Three objectives of sustainable development
- 10-12 Presumption in favour of sustainable development
- 38 Decision-making
- 47-50 Determining applications
- 55 – 58 Planning conditions and obligations
- 60 – 80 Delivering a sufficient supply of homes
- 104 – 113 Promoting sustainable transport
- 119 – 123 Making effective use of land
- 126 – 136 Achieving well-designed places
- 174 – 188 Conserving and enhancing the natural environment

4.2 Maldon District Local Development Plan 2014 – 2029 approved by the Secretary of State:

- Policy S1 – Sustainable Development
- Policy S8 – Settlement Boundaries and the Countryside
- Policy D1– Design Quality and Built Environment
- Policy D2 – Climate Change and the Environmental Impact of New Development
- Policy H2 – Housing Mix
- Policy H4 – Effective Use of Land
- Policy N2 – Natural Environment and Biodiversity
- Policy T1– Sustainable Transport
- Policy T2 – Accessibility
- Policy I1 – Infrastructure and Services

4.3 Relevant Planning Guidance / Documents:

- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)
- Maldon District Vehicle Parking Standards
- Maldon District Design Guide (MDDG)

5. MAIN CONSIDERATIONS

5.1 Principle of Development

- 5.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, Section 70(2) of the 1990 Act and paragraph 47 of the NPPF require that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the development plan comprises of the approved LDP.

5.1.2 As part of the drive to deliver new homes the Government has stated that there is a need for councils to demonstrate that there are sufficient sites available to meet the housing requirements for the next five years; this is known as the Five-Year Housing Land Supply (5YHLS).

5.1.3 Where a Local Planning Authority (LPA) is unable to demonstrate that it has a 5YHLS, the presumption in favour of sustainable development will apply; this is known as the 'Tilted Balance'. This position is set out in paragraph 11d, together with its footnote 8 of the NPPF which states:

"For decision taking this means:

"(d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

"(i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

"(ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

Footnote 8 - This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74)

5.1.4 At the heart of the NPPF is a presumption in favour of sustainable development (the 'presumption') which is central to the policy approach in the Framework, as it sets out the Government's policy in respect of housing delivery within the planning system and emphasises the need to plan positively for appropriate new development. The NPPF replaces those Local Plan policies that do not comply with the requirements of the NPPF in terms of housing delivery. In addition, leading case law assists the LPA in its application of NPPF policies applicable to conditions where the 5-year housing land supply cannot be demonstrated (*Suffolk Coastal DC v Hopkins Homes and Richborough Estates v Cheshire East BC* [2017] UKSC 37).

5.1.5 It is necessary to assess whether the proposed development is 'sustainable development' as defined in the NPPF. If the site is considered sustainable then the NPPF's 'presumption in favour of sustainable development' applies. However, where the development plan is 'absent, silent or relevant policies are out of date', planning permission should be granted 'unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or that specific policies in this Framework indicate development should be restricted'.

5.1.6 In judging whether a residential scheme should be granted, it is necessary to consider the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall, against the adverse impacts identified (if any) arising from the proposal in relation to the policies contained within the NPPF and relevant policies in the Local Plan.

5.1.7 There are three dimensions to sustainable development as defined in the NPPF. These are the economic, social and environmental roles. The LDP through Policy S1 re-iterates the requirements of the NPPF but there are no specific policies on

sustainability in the current Local Plan. Policy S1 allows for new development within the defined development boundaries. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. However, because the Council cannot demonstrate an up to date five year supply of deliverable housing and on the basis that sites outside of the defined development boundaries could be judged to be 'sustainable development' through the three dimension tests of the NPPF, the LPA is obliged to exercise its judgement as to whether to grant planning permission having regard to any other relevant planning policies and merits of the scheme.

5.1.8 Paragraph 79 of the NPPF states that:

'To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby'.

5.1.9 The application site is located outside of the defined settlement boundary of Mayland, a village that is classified as one of the "larger villages" within the district, as detailed within policy S8 of the LDP. The impact of the proposed development on the character and intrinsic beauty of the countryside should be assessed as well as whether the development constitutes sustainable development.

5.1.10 Mayland is classed as a larger village which has a limited range of services and opportunities for employment, retail and education, with a lower level of access to public transportation. There are some local services including a medical centre, school, corner shop/post office and some facilities such as pubs and hairdressers/beauty salons, which the submitted Planning Statement makes reference to. However, the application site is located along Nipsells Chase which is an unmade unlit road with no footpath; 350m north of the main part of Nipsells Chase which is lit and has a footpath. The site is located approximately 650m as the crow flies, to the medical centre and school. The nearest bus stops are 'Maylandsea opp Post Office' 580m the west of the site, as the crow flies, and 'Maylandsea, Wembley Avenue' 630m in a straight line to the south (approximately 15-minute walk). However, it doesn't appear that there is a regular 7-day-a-week bus service that uses these bus stops. It is used by six school buses, the 31D which only appears to run on Sundays, the 31 and 31C which only serves this particular bus stop twice a day, and the D1 and D2 which run between Maldon and Southminster/Bradwell every two hours between 7:20 and 17:00 on weekdays. Therefore, even if there were a footpath between the site and the bus stops, due to the lack of a regular service operating throughout the day, this would restrict the opportunities to use public transport to meet the day to day needs of the future occupiers of the proposed dwelling. Given the above, the occupiers of the site would have to walk along Nipsells Chase to be able to access any of the facilities within the main settlement. Due to this, it is likely that the occupiers of the dwelling will be reliant on the use of private cars for their journeys.

5.1.11 It is noted that a public right of way is located along Nipsells Chase, however this does not mean that it is a suitable pedestrian access into Mayland and to bus stops, at all times of the day and year. Neither does it mean it is an access maintained at the public expense meeting accessibility or safety criteria for public use. Based on this assessment, the location of the site would fail to discourage the use of private cars contrary to Paragraph 105 of the NPPF which states that "The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable,

through limiting the need to travel and offering a genuine choice of transport modes.” Overall it is considered that the future occupiers would be heavily reliant on the use of private motor vehicles and the proposal would also fail to accord with Policy T2 of the LDP.

- 5.1.12 The Planning Statement makes reference to North Fambridge and Althorne train station; however, these are not easily accessible by sustainable modes of transport, only by car. The statement also refers to various bus services, as mentioned above in paragraph 5.1.10. These are accessed by the bus stops along Wembley Avenue, to the south, and opposite the post office to the west along Imperial Avenue. The statement also outlined the facilities located within Mayland. These bus stops and services would have to be accessed along an unmade, unlit footpath as outlined above and therefore they are not considered to be accessible services or an alternative transport mode. As is discussed in detail in section 5.1.10 above, the bus service is not considered to be of a volume or frequency as to make the proposal a sustainable development, given the existing provision in the vicinity.
- 5.1.13 It is noted that a previous application 17/00736/FUL was withdrawn prior to a decision being made, however, was included on the agenda for the South East Area committee due to be heard on 11 September 2017. This report did not make reference to the inaccessibility and unsustainability of the site however as a decision was not made for this application, this is not a material consideration in the assessment.
- 5.1.14 It is noted a previous application 21/00102/FUL was withdrawn prior to a decision being made however was included on the agenda for the South East Area Committee due to be heard on 26 May 2021. The report for this outlined similar concerns as this report and recommended the same reason for refusal.
- 5.1.15 The agent has raised application 16/01492/FUL at Seal Point approved to the north west of the site, off North Drive. However, this is considered to be a materially different application. This site was considered sustainable and accessible due to its location which connects to the main settlement and the facilities within Mayland via a lit footpath, which is not the case under this application, as discussed above. In addition, the dwelling was considered to be an exemplary designed property which the NPPF supports in unsustainable locations.
- 5.1.16 It is noted that 150 dwellings were proposed east of the site at Nipsells Farm Lodge under the terms of 15/00179/OUT (APP/X1545/W/15/3139154). Whilst this application was dismissed on appeal, it is noted that no objection was raised in terms of the accessibility of the site. However, this application involved the provision of a new footpath through the site to the south, joining onto the existing main road of Nipsells Chase, bypassing the unmade part of the road.
- 5.1.17 Similarly, 50 dwellings were refused and dismissed on appeal (APP/X1545/W/16/3153141) to the south of the site, at Land South West of Riversleigh, under the terms of 15/00610/OUT, however, no objection was raised in terms of the accessibility of the site. However, this site was not proposed to be accessed via Nipsells Chase, it was accessed via Orchard Drive to the south, which is a road with lighting and a footpath, which is materially different to the application site.
- 5.1.18 It is noted that the Planning Statement makes reference to a previous dwelling on the site from 1991. There is no dwelling on the site currently and any historical residential use of the site has clearly ceased; the application has correctly been assessed as a new dwelling and not a replacement dwelling.

- 5.1.19 It is noted that the application is for a self-build dwelling. No part of the self-build legislation supports the development of dwellings in otherwise unsuitable or unsustainable locations, where market dwellings would also be unacceptable. Furthermore, the NPPF 2021 (paragraph 80) provides clear exceptions as to when dwellings in the countryside may be acceptable; none of which is self-build. Given the assessment above, the application site would be in an inaccessible and unsustainable location.
- 5.1.20 The Planning Statement makes reference to the fact that the proposal is for a live/work unit. This is not considered to be the case in planning terms; whilst it is noted that the proposal includes the provision of a study this is not an unusual situation in any residential dwelling. A live/work unit would have to consist of both a clearly defined residential and employment use, quite often a B1 use, rather than include a space that is ancillary to the residential use of the dwelling.
- 5.1.21 Therefore, given the above, it is considered that the principle of providing a dwelling at this site is not founded and is in conflict with the guidance contained within the NPPF and the LDP.

5.2 Self-Build Housing

- 5.2.1 Paragraph 62 of the NPPF states that LPAs should plan for a mix of housing including 'people wishing to build their own homes'.
- 5.2.2 Footnote 28 to Paragraph 62 identifies that self and custom build properties can provide market housing, however self-build housing does not normally seek to address local housing need.
- 5.2.3 Custom and self-build housing has gained legislative support through the self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). This legislation requires the Council to maintain a self-build register and to 'give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period' i.e. to grant sufficient 'development permissions' to meet the demand for self-build.
- 5.2.4 Policy H2 of the LDP states 'where appropriate, the Council will work with developers, registered providers, landowners and relevant individuals (or groups of individuals) to address identified local need for self-build housing. The Council's self-build register has 11 people listed and 48 sites granted planning permission and therefore there is a surplus number of sites available for the construction of self-build dwellings meaning there is land available in suitable and sustainable locations.
- 5.2.5 There is no part of the self-build legislation that supports development which would be located within an unsuitable, unsustainable location, where market dwellings would also not be found acceptable. Paragraph 80 of the NPPF states that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of 5 exemptions apply; (a) the application relates to an agricultural worker's dwelling, (b) the development would represent the optimal viable use of a heritage asset, (c) the development would re-use redundant or disused buildings, (d) the development would involve the subdivision of an existing dwelling, or (e) the design is of exceptional quality. No reference is made to self-build dwellings.

- 5.2.6 The Planning Statement states that the applicant has been on the self-build register and has not been offered a plot of land; however, it is not the responsibility of the Council to 'offer' a plot of land to people on the self-build register. The onus is on the applicant to attain one of 48 plots available.
- 5.2.7 Therefore, as there are 11 people on the self-build register and 48 plots available, it is not considered that there is any reason to grant planning permission for a self-build dwelling on the application site, particularly as it is within an unsustainable location in terms of accessibility and would have an undue impact on the character of the area. Furthermore, the Applicant has not provided any robust position as to why any of the 48 plots would not be acceptable and therefore, this weighs further against the Applicant's argument.

5.3 Housing Need and Supply

- 5.3.1 Recent case law, as noted above and having regard to S38 (6), restates the primacy of the of the statutory development plan as the starting point in the determination of planning applications. However, in respect of the Council's current land supply position, the NPPF states that LPAs should consider applications for new dwellings in the context of the presumption in favour of sustainable development, and the LDP policies in relation to the supply of housing should not be considered to be up-to-date. As a result, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, or specific policies in the NPPF indicate that development should be restricted.
- 5.3.2 Whilst the LDP carries limited weight at present due to the lack of a 5YHLS and consequent impact on its housing delivery policies in particular (including those policies which define settlement boundaries), the NPPF is clear that housing should be provided to meet an identified need.
- 5.3.3 The Local Housing Needs Assessment (2021) (LHNA) is an assessment of housing need for Maldon District, as a whole, as well as sub-areas across the District which are considered alongside the housing market geography in this report. The LHNA is wholly compliant with the latest NPPF and NPPG, and provides the Council with a clear understanding of the local housing need in the District and demographic implications of this, the need for affordable housing, the need for older persons housing, the need for different types, tenures and sizes of housing, the housing need for specific groups and the need to provide housing for specific housing market segments such as self-build housing.
- 5.3.4 The proposal would provide one two-bedroom dwelling. The LHNA concludes that the District has a need for smaller dwellings, with the biggest requirement for 3 bed dwellings; specifically, 25-35% 2-beds and 40-50% 3-beds. Therefore, as the proposal relates to a two-bedroom dwelling, this would contribute towards the housing need. However, this would be very limited given the proposal is for one dwelling and would not outweigh the concerns raised within the report.

5.4 Design and Impact on the Character of the Area

- 5.4.1 The planning system promotes high quality development through good inclusive design and layout and the creation of safe, sustainable, liveable and mixed communities. Good design should be indivisible from good planning. Recognised principles of good design sought to create a high-quality built environment for all types of development.

5.4.2 It should be noted that good design is fundamental to high quality new development and its importance is reflected in the NPPF. The NPPF states that:

“The creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”.

“Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents”.

5.4.3 The basis of policy D1 of the approved LDP seeks to ensure that all development will respect and enhance the character and local context and make a positive contribution in terms of:-

- a) Architectural style, use of materials, detailed design features and construction methods. Innovative design and construction solutions will be considered where appropriate;
- b) Height, size, scale, form, massing and proportion;
- c) Landscape setting, townscape setting and skylines;
- d) Layout, orientation, and density;

5.4.4 Similar support for high quality design and the appropriate layout, scale and detailing of development is found within the MDDG.

5.4.5 In addition, policy H4 requires all development to be design-led and to seek to optimise the use of land having regard, among others, to the location and the setting of the site, and the existing character and density of the surrounding area. The policy also seeks to promote development which maintains, and where possible enhances, the character and sustainability of the original building and the surrounding area; is of an appropriate scale and design that makes a positive contribution to the character of the original building and the surrounding area.

5.4.6 The proposed dwelling would be located outside the defined settlement boundary within a rural area and by reason of its formal siting and more urban nature would appear entirely at odds and out of keeping with the rural character of the area. This would be harmful to the distinctive character of the area and it would have an unacceptable impact on its surroundings.

5.4.7 When viewed in isolation, there are no objections to the design of the dwelling per se. Notwithstanding, it is considered that this does not mitigate the harm that is caused by the domestication of the site and the erection of a dwelling within the countryside on land which is intended to be used for purposes akin to the countryside and not residential development.

5.4.8 Whilst planning permission has been granted for a barn, stable and ménage within the wider site, these are developments which are commensurate with the rural location. This is materially different to the erection of a residential dwelling in a rural location.

5.4.9 On the basis of the above, it is considered that the proposed development, by reason of its siting, urban nature, plot size, layout, scale, proportions and design would result in a development out of keeping with the grain and character of the countryside.

5.5 Impact on Residential Amenity

- 5.5.1 The basis of policy D1 of the approved LDP seeks to ensure that development will protect the amenity of its surrounding areas taking into account privacy, overlooking, outlook, noise, smell, light, visual impact, pollution, daylight and sunlight.
- 5.5.2 The dwelling known as Riversleigh lies over 40 metres to the south of the site and the dwelling known as Orchard House lies over 80 metres to the north of the site. Due to the significant separation distance, it is not considered that the proposed dwelling would result in an impact on the residential amenity of neighbouring sites by way of a loss of light or a loss of privacy.

5.6 Access, Parking and Highway Safety

- 5.6.1 Policies D1 and T2 of the approved LDP seeks to include safe and secure vehicle and cycle parking having regard to the Council's adopted parking standards, which are expressed as minimum standards and maximise connectivity within the development and to the surrounding areas including the provision of high quality and safe pedestrian, cycle and, where appropriate, horse riding routes.
- 5.6.2 The proposed dwelling would be served by the existing access from Nipsells Chase.
- 5.6.3 The proposed dwelling has two bedrooms, and therefore two parking spaces are required.
- 5.6.4 There is a parking area to the north of the dwelling which could accommodate at least two parking spaces of the required dimensions, 2.9 metres by 5.5 metres. An integral garage is also proposed. The parking standards require a single garage to measure 3 metres wide by 7 metres deep internally. The proposed garage measures 5.9 metres wide and 6.7 metres deep. Whilst marginally under the standards, this would be sufficient space for at least one reasonably sized car and therefore there would be sufficient parking provision at the site.

5.7 Private Amenity Space and Landscaping

- 5.7.1 Policy D1 of the approved LDP requires all development to provide sufficient and usable private and public amenity spaces, green infrastructure and public open spaces. In addition, the adopted Essex Design Guide SPD advises a suitable garden size for each type of dwellinghouse, namely 100sqm of private amenity space for dwellings with three or more bedrooms.
- 5.7.2 The proposed dwelling would have over 100 square metres of amenity space, in accordance with the standards set out within the MDDG.

5.8 Ecology

- 5.8.1 The application site is part of a Local Wildlife Site as designated within the LDP. It is noted that previous applications have been approved on the site for the construction of a barn, stable and ménage and there were no fundamental objections to these developments due to the location on a local wildlife site.
- 5.8.2 The Planning Statement has set out several wildlife and landscaping measures including Swallow boxes, Robin boxes, Brushwood nesting boxes, additional planting along the west and south boundaries to create wild flower corridors, additional native trees and shrubs to all boundaries.

- 5.8.3 If the application were to be approved, a condition would be imposed to ensure a soft landscape scheme is provided to show how this will enhance amenity, ecological net gain and screening/softening.
- 5.8.4 It is noted that Essex County Council Place Services (Ecology) have not responded at the time of writing the report; however, they did not object to the previous withdrawn application, after amended ecology details were provided, which have also been provided under this application. Their response will be included in the Members' Update.

5.9 RAMS and Impact on Designated Sites

- 5.9.1 The application site falls within the 'Zone of Influence' for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). This means that residential developments could potentially have a significant effect on the sensitive interest features of these coastal European designated sites, through increased recreational pressure etc.
- 5.9.2 The development of one dwelling falls below the scale at which bespoke advice is given from Natural England (NE). To accord with NE's requirements and standard advice an Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) Habitat Regulation Assessment (HRA) Record has been completed to assess if the development would constitute a 'Likely Significant Effect' (LSE) to a European site in terms of increased recreational disturbance. The findings from the HRA Stage 1: Screening Assessment are listed below:

HRA Stage 1: Screening Assessment – Test 1 - the significance test

Is the development within the zone of influence (Zol) for the Essex Coast RAMS with respect to the below sites? Yes

Does the planning application fall within the following development types? Yes

Proceed to HRA Stage 2: Appropriate Assessment to assess recreational disturbance impacts on the above designated sites

Test 2 – the integrity test

Is the proposal for 100 houses + (or equivalent)? No

Is the proposal within or directly adjacent to one of the above European designated sites? No

- 5.9.3 As the answer is no, it is advised that a proportionate financial contribution should be secured in line with the Essex Coast RAMS requirements. Provided this mitigation is secured, it can be concluded that this planning application will not have an adverse effect on the integrity of the above European sites from recreational disturbance, when considered 'in combination' with other development. NE does not need to be re-consulted on this Appropriate Assessment.
- 5.9.4 The Essex Coastal Recreational Avoidance and Mitigation Strategy document has been adopted. A unilateral undertaking has been submitted with the application; this will be checked by the Legal department and an update will be provided on the Members' Update. Reason for refusal number 3 will be updated if the legal agreement is found to be sufficient.

5.10 Planning Balance and Sustainability

- 5.10.1 It is important to recognise the balance between the Local Plan policies relevant to the development under consideration and the position of the NPPF in respect of the LDP policies now considered to be out of date due to the lack of a 5YHLS. The tilted balance is engaged in this case and hence the LPA must give significant weight to the NPPF and its fundamental position of sustainable development which is the defining purpose of the planning system, as a material consideration.
- 5.10.2 The key priority within the NPPF, is the provision of sustainable development. This requires any development to be considered against the three dimensions within the definition of 'sustainable development' providing for an economic, social and environmental objective as set out in the NPPF.
- 5.10.3 Notwithstanding the considerations as contained in those paragraph's, it is incumbent on the LPA, where appropriate to consider, as a matter of general planning judgment, the site specific or scheme specific reasons for refusal. However, it does mean that planning applications submitted for land which is unallocated or located outside defined settlement boundaries, as set out in local plan policies, could no longer be refused on those grounds alone.
- 5.10.4 In judging whether a residential scheme should be granted, it is necessary to set out the weight attributed to the planning benefits which the proposal offers in making up the current housing land supply shortfall (with reasons), against the harm identified (if any) arising from the proposed development.
- 5.10.5 With regard to the 3 tests of sustainability, the economic benefits are difficult to quantify as the prospective owners may "self-build" rather than create employment in the construction industry. As the proposal is for one dwelling, any economic benefits would be negligible.
- 5.10.6 In social terms the proposal would provide limited benefits to the vibrancy of the local area, as mentioned in section 5.1, the occupiers of the site would still be reliant on private cars due to the lack of a lit footpath to the nearby facilities. The application is for one family dwelling and therefore provides limited benefits in terms of the housing supply or mix.
- 5.10.7 In environmental terms, due to the location of the site down an unmade unlit track, the site has limited access to services, facilities and public transport infrastructure and that the occupiers of the dwelling will be reliant on private motor vehicles to satisfy the requirements of day-to-day living. The development would also harm the character and appearance of the rural area.
- 5.10.8 Overall, taking this into account, the development is not considered to be sustainable, and therefore the principle of development would therefore be unacceptable.

5.11 Other Material Considerations

- 5.11.1 It is noted that there are trees on the site which are subject to a Tree Preservation Order. The Council's Tree Consultant has not provided a response for this application yet, however in the previous application he considered that some young Hornbeams need to be removed, which could likely be replanted elsewhere on the site, and the submitted tree report shows protective fencing can be set up to protect the remaining trees. If the application were to be approved, a condition is

recommended to ensure a tree protection method statement in accordance with BS5837:2012, to include supervision visits, is provided.

6. ANY RELEVANT SITE HISTORY

- **17/00736/FUL** - Proposed construction of a new detached single storey dwelling – Withdrawn
- **17/01043/AGR** - Prior notification for permeable hardstanding, with edging stones. – Refused
- **17/01060/DD** - T1 - Elm - Fell. T2 - Wild Pear - Fell. T3 - Wild Pear - Fell. Can works proceed under 5-day D&D **5 Day Notice** - Approved
- **18/00816/HRN** - Hedgerow removal notice for clearance either side of entrance. Area 1 (Southern side) - 2.5m. Area 2 (Northern side) - 3m. – Allow
- **21/00102/FUL** - Construction of a single storey dwelling – withdrawn

Applications within the wider site:

- **18/00280/FUL** - Construction of an apple storage barn – Approved
- **18/00839/FUL** - Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses – Approved
- **20/00345/FUL** - Variation of condition 2 and 8 on approved planning permission 18/00839/FUL (Change of use of land to equestrian and erection of building to be used for storage of agricultural machinery and stabling of six horses) – Approved
- **20/00733/FUL** - An equestrian arena to ride in the wet winter months. The arena is to be made of an equestrian sand mix.

7. CONSULTATIONS AND REPRESENTATIONS RECEIVED

7.1 Representations received from Parish / Town Councils

Name of Parish / Town Council	Comment	Officer Response
Mayland Parish Council	Object <ul style="list-style-type: none"> • Policy S8 - Outside the Defined Settlement Boundary • Contrary to MDC Local Plan • Acceptance would set a bad precedent • Site is unsustainable 	Comments noted. See section 5.1 and 5.3.

7.2 Statutory Consultees and Other Organisations

Name of Statutory Consultee / Other Organisation	Comment	Officer Response
Essex County Council Place Services – Ecology	No response at the time of writing the report.	It is noted that no objections were raised in the previous withdrawn application regarding ecology, however any consultation response will be noted in the Members' Update.
Essex County Council Highways Authority (ECC)	No objection – if approved, please include an informative ensuring the public's right of passage over footpath No.17 is maintained free and unobstructed.	Comments noted. If the application were to be approved, this would be included.
Tree Consultant	No response at the time of writing the report.	It is noted that no objections were raised in the previous withdrawn application regarding trees, however any consultation response will be noted in the Members' Update.

7.3 Internal Consultees

Name of Internal Consultee	Comment	Officer Response
Environmental Health	No objection subject to conditions relating to surface water and foul drainage.	Comments noted. If the application were to be approved, this would be included.

7.4 Representations received from Interested Parties

7.4.1 1 Letter has been received **objecting** to the application and the reasons for objection are summarised as set out in the table below:

Objection Comment	Officer Response
Already permission for a barn and stables on the site, which has eroded the rural character of the site. Exacerbated by the removal of trees and construction of the gated access.	Comments noted. The Council is aware of the planning history of the site.
This application is contrary to the Maldon District Council Local Plan.	Comments noted.
Contrary to S8 and outside the settlement boundary.	Comments noted. See section 5.1 and 5.4.
The site is a Local Designated Wildlife Site.	Comments noted. See section 5.8.

Objection Comment	Officer Response
The introduction of the domestic paraphernalia which accompany residential development would not be appropriate on this site.	Comments noted. See section 5.4.
No special circumstances demonstrated for requiring home working; this only shows one room as being an office which could be used as a bedroom in the future and could not be secured via condition	Comments noted.
Concerns over design	Comments noted. See section 5.4.
Personal circumstances should not be considered, as it wasn't in 21/00571/FUL.	Comments noted.
This is not an infill site or replacement dwelling.	Comments noted. See section 5.1.
A comparison cannot be drawn with Seal Point, permitted under 16/01492/FUL.	Comments noted. See section 5.1.
Concerns over accessibility and sustainability due to the road being unmade with no pavement. The path mentioned which links into the centre of the village is often inaccessible due to puddles and mud and is again unsurfaced and inaccessible for pushchair/wheelchair use.	Comments noted. See section 5.1.
The supporting information makes much of the applicant's desire to remain in the village, but there are of course a number of houses always for sale in Mayland. Unless conditions were imposed, there would be no deterrent for the house being sold at any time to someone else.	Comments noted. A condition restricting the occupancy of the dwelling would not meet the six tests and could not be imposed.

7.4.2 2 Letters have been received supporting the application and the reasons are summarised below:

Objection Comment	Officer Response
Site is on the settlement boundary	Comments noted. See section 5.1.
The site is sustainable	Comments noted. See section 5.1.
The dwelling is a good design	Comments noted. See section 5.4.
It has two-bedrooms which supports the housing need	Comments noted. See section 5.3.
Sufficient parking and amenity space	Comments noted. See sections 5.6 and 5.7.
Won't be visible in the area due to vegetation	Comments noted. See section 5.4.
Local people want smaller developments spread around the village	Comments noted.
No 5YHLS	Comments noted. See section 5.1.
Government encourage self-build dwellings	Comments noted. See section 5.2.
Approval given to Seal Point which is	Comments noted. See section 5.1.

Objection Comment	Officer Response
further away from the village	

8. REASONS FOR REFUSAL

- 1 The site would be disconnected from services and facilities and by reason of its location, it would provide poor quality and limited access to public transportation, resulting in an increased need of private vehicle ownership. The development would therefore be unsustainable and contrary to policies S1, S8, T1 and T2 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.
- 2 The application site lies within a rural location. The proposed development, by virtue of its urban nature and the siting, layout and design of the dwelling would fail to protect and enhance the character and appearance of the rural area and the built form would result in an unwelcome visual intrusion into this undeveloped section of the countryside to the detriment of the character and appearance of the rural area. The development would therefore be unacceptable and contrary to policies S1, S8, D1 and H4 of the Maldon District Local Development Plan and Government advice contained within the National Planning Policy Framework.
- 3 In the absence of a completed legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990, securing a necessary financial contribution towards Essex Coast Recreational disturbance Avoidance and Mitigation Strategy or an appropriate mitigation strategy to overcome the impacts of the development on the European designated nature conservation sites, the development would have an adverse impact on those European designated nature conservation sites, contrary to Policies S1, and I1 of the Maldon District Local Development Plan and the guidance contained within the National Planning Policy Framework.